

AMENDED IN SENATE MARCH 15, 2004

SENATE BILL

No. 1090

Introduced by Senator Dunn

January 8, 2004

An act to amend *Section 798.71 of the Civil Code*, and to amend Sections 18060.5 and 18063 of the Health and Safety Code, relating to manufactured homes and mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1090, as amended, Dunn. Manufactured homes and mobilehomes.

(1) *Under the existing Mobilehome Residency Law, the management may not prohibit the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, or the agent of any such person other than the management, nor require the selling homeowner, or an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who was a homeowner at the time of his or her death, to authorize the management to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park.*

This bill would additionally provide that the management may not require the selling homeowner or an heir, joint tenant, or personal representative of the estate who gains ownership of a mobilehome in the mobilehome park through the death of the owner of the mobilehome who

was a homeowner at the time of his or her death, to authorize any other specified broker, dealer, or person to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park. The bill would also make technical changes in those provisions.

(2) The existing ~~Mobilehomes—Manufactured Mobilehomes—Manufactured~~ Housing Act of 1980 prescribes conduct that is an unlawful business practice with respect to the sale of manufactured homes and mobilehomes, makes it unlawful for a salesperson to engage in specified conduct, and makes it a misdemeanor to engage in those practices or that conduct.

This bill would revise a provision that makes it an unlawful business practice to participate in the sale of a manufactured home, mobilehome, or commercial coach without making the return and payment of sales tax due.

The bill would additionally make it an unlawful business practice to fail, at the time that the seller accepts a buyer's offer for a manufactured home or mobilehome that is not a new manufactured home or mobilehome, to execute a document or provision within an existing document signed by both the dealer and seller that discloses the exact amount of the buyer's offer and the specific amounts of any commission and each and every other payment being made to the dealer or any employee or agent of the dealer, and by the dealer, from sale proceeds to any other person. The bill would require the dealer to submit a copy of that disclosure into escrow and maintain, at the dealer's place of business, a copy of that disclosure for 3 years from the date of sale. The bill would make it unlawful for a salesperson who is also ~~the~~ an owner or manager or ~~manager's~~ an agent of the owner or manager of a mobilehome park to violate specified provisions of the Mobilehome Residency Law relating to the transfer of mobilehomes.

(3) The act makes it unlawful for a dealer to violate specified provisions of the Mobilehome Residency Law.

This bill would make it unlawful for a dealer to violate additional specified provisions of the Mobilehome Residency Law.

(4) The bill would specify the extent to which regulations of the department to implement and interpret provisions of the bill are editorial changes for purposes of the Administrative Procedure Act. Because



Because violations of these various provisions of the bill would create new crimes, the bill would create a state-mandated local program.

~~(2)–~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 798.71 of the Civil Code is amended to*
2 *read:*

3 798.71. (a) (1) The management may not show or list for
4 sale a manufactured home or mobilehome without first obtaining
5 the owner's written authorization. The authorization shall specify
6 the terms and conditions regarding the showing or listing.

7 (2) Management may require that a homeowner advise
8 management in writing that his or her *manufactured home or*
9 mobilehome is for sale. If management requires that a homeowner
10 advise management in writing that his or her *manufactured home*
11 *or* mobilehome is for sale, failure to comply with this requirement
12 does not invalidate a transfer.

13 (b) The management shall prohibit neither the listing nor the
14 sale of a manufactured home or mobilehome within the park by the
15 homeowner, an heir, joint tenant, or personal representative of the
16 estate who gains ownership of a *manufactured home or*
17 mobilehome in the mobilehome park through the death of the
18 owner of the *manufactured home or* mobilehome who was a
19 homeowner at the time of his or her death, or the agent of any such
20 person other than the management, ~~nor require the selling~~
21 ~~homeowner, or an heir, joint tenant, or personal representative of~~
22 ~~the estate who gains ownership of a mobilehome in the~~
23 ~~mobilehome park through the death of the owner of the~~
24 ~~mobilehome who was a homeowner at the time of his or her death,~~
25 ~~to authorize the management to act as the agent in the sale of a~~

~~1 manufactured home or mobilehome as a condition of
2 management's approval of the buyer or prospective homeowner
3 for residency in the park.~~

4 (c) *The management shall not require the selling homeowner,
5 or an heir, joint tenant, or personal representative of the estate,
6 who gains ownership of a manufactured home or mobilehome in
7 the mobilehome park through the death of the owner of the
8 manufactured home or mobilehome who was a homeowner at the
9 time of his or her death, to authorize the management or any other
10 specified broker, dealer, or person to act as the agent in the sale of
11 a manufactured home or mobilehome as a condition or resale of
12 the home in the park or of management's approval of the buyer or
13 prospective homeowner for residency in the park.*

14 (d) Nothing in this section shall be construed as affecting the
15 provisions of the Health and Safety Code governing the licensing
16 of manufactured home or mobilehome salespersons or dealers.

17 SEC. 2. Section 18060.5 of the Health and Safety Code is
18 amended to read:

19 18060.5. With respect to business practices, it is unlawful to
20 do any of the following:

21 (a) Knowingly purchase, sell, or otherwise acquire or dispose
22 of a stolen manufactured home, mobilehome, or commercial
23 coach.

24 (b) Violate any of the terms or provisions of regulations
25 promulgated under the authority of Section 18015.

26 (c) Cause the state or any person to suffer any loss or damage
27 by reason of any fraud or deceit practiced on them or fraudulent
28 representations made to any person in the sale or purchase of a
29 manufactured home, mobilehome, or commercial coach or parts
30 or accessories thereof.

31 (d) Violate any of the terms and conditions of Chapter 3
32 (commencing with Section 1797) of Title 1.7 of Part 4 of Division
33 3 of the Civil Code.

34 (e) Move a manufactured home, mobilehome, or commercial
35 coach subject to registration pursuant to this part from a
36 mobilehome park or other site of installation to another location,
37 without obtaining from the legal owner, written consent for the
38 move as prescribed in Section 18099.5.

39 (f) Include as an added cost to the selling price of a
40 manufactured home, mobilehome, or commercial coach, an

amount for licensing or transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is not due to the state unless, prior to the sale, the amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of those fees. However, a dealer may collect from the second purchaser of a manufactured home, mobilehome, or commercial coach, a prorated fee based upon the number of months remaining in the registration year for that manufactured home, mobilehome, or commercial coach, if the manufactured home, mobilehome, or commercial coach was previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this part and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the manufactured home, mobilehome, or commercial coach.

(g) Participate in the sale of a manufactured home, mobilehome, or commercial coach reported to the Department of Motor Vehicles under Section 5900 of the Vehicle Code or to the department pursuant to this part without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(h) Fail to exercise reasonable supervision over the activities of employees who negotiate or promote the sale of manufactured homes, mobilehomes, or commercial coaches.

(i) Display for sale, offer for sale, or sell, a manufactured home, mobilehome, or commercial coach, representing that manufactured home, mobilehome, or commercial coach to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed manufactured home, mobilehome, or commercial coach.

(j) Directly or indirectly authorize or advise another licensee to change the year model of a manufactured home, mobilehome, or commercial coach in the inventory of the other licensee.

(k) Fail, at the time that the seller accepts a buyer's offer for a manufactured home or mobilehome that is not a new manufactured home or mobilehome, to execute a document or provision within an existing document signed by both the dealer and seller, that discloses the exact amount of the buyer's offer and the specific amounts of any commission and each and every other

1 payment being made to the dealer or any employee or agent of the
2 dealer, and by the dealer, from sale proceeds to any other person.
3 The dealer shall submit a copy of that disclosure into escrow and
4 maintain, at the dealer's place of business, a copy of that disclosure
5 for three years from the date of sale.

6 ~~SEC. 2.—~~

7 SEC. 3. Section 18063 of the Health and Safety Code is
8 amended to read:

9 18063. It is unlawful for a salesperson to do any of the
10 following:

11 (a) At the time of employment, not deliver to his or her
12 employing dealer his or her salesperson's license or 90-day
13 certificate.

14 (b) Fail to report in writing to the department every change of
15 residence within five days of the change.

16 (c) Act or attempt to act as a salesperson while not employed
17 by a dealer. For purposes of this subdivision, "employment by a
18 dealer" means employment reported to the department pursuant
19 to subdivision (c) of Section 18060.

20 (d) To violate Section 798.71 or 798.74 of the Civil Code, or
21 both.

22 (e) When the salesperson is ~~a~~ an owner or manager, or an agent
23 of the owner or manager, of a mobilehome park and serves as the
24 salesperson for a manufactured home or mobilehome to be
25 installed or sold in the park, to violate Section 798.72, 798.73,
26 798.73.5, 798.75.5, or 798.83 of the Civil Code.

27 ~~SEC. 3.—~~

28 SEC. 4. *Any regulations adopted by the Department of*
29 *Housing and Community Development in Title 25 of the California*
30 *Code of Regulations to implement and interpret the amendments*
31 *in Sections 2 to 6, inclusive, of this act shall be deemed editorial*
32 *changes pursuant to the Administrative Procedure Act (Chapter*
33 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
34 *Title 2 of the Government Code), if they are amendments, repeals,*
35 *or adoptions that are substantially the same in content as the*
36 *provisions of Sections 2 to 6, inclusive, of this act.*

37 SEC. 5. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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